

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE**  
**ZONING TEXT AMENDMENT REPORT (#FZTA-20-01)**  
**(March 11, 2020)**

A report to the Flathead County Planning Board and Board of Commissioners regarding various amendments to the Flathead County Zoning Regulations (FCZR). The request proposed a complete rewrite of Section 3.45 PUD Planned Unit Development and Section 3.34 SC Scenic Corridor. The request also proposes to add a definition for “off premise sign” and to eliminate unneeded definitions in Chapter 8 of the regulations.

The Flathead County Planning Board will conduct a public hearing on the proposed text amendment on March 11, 2020 in the South Campus Building 2<sup>nd</sup> Floor Conference Room, 40 11<sup>th</sup> Street West, Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will also hold a public hearing on the proposed amendment(s) at a date and time yet to be determined. Documents pertaining to the text amendment(s) are available for public inspection in the Flathead County Planning and Zoning Office, South Campus Building, 40 11<sup>th</sup> Street West, in Kalispell. Prior to the Commissioner’s public hearing, documents pertaining to the text amendment(s) will also be available for public inspection in the Flathead County Clerk and Records Office, 800 South Main Street, in Kalispell.

**I. APPLICATION REVIEW UPDATES**

**A. Planning Board**

The Flathead County Planning Board will hold a public hearing on the proposed amendment on March 11, 2020 and make a recommendation to the Flathead County Commissioners. This space is reserved for a summary of the Flathead County Planning Board’s discussion and recommendation.

**B. Commission**

The Flathead County Commissioners will hold a public hearing on the proposed amendment on a date to be determined. This space is reserved for a summary of the Commission’s discussion and decision.

**II. GENERAL INFORMATION**

**A. Application Personnel**

**i. Applicant**

Flathead County Planning Board

**B. Proposed for Amendment**

The proposal is a request to amend Section 3.45 PUD Planned Unit Development, Section 3.32 SC Scenic Corridor, and Chapter 8 Definitions of the Flathead County Zoning Regulations. The text of this request is attached as Exhibit A.

**C. Criteria Used for Evaluation of Proposed Amendment:**

Amendments to the text of the Flathead County Zoning Regulations are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

**D. Compliance With Public Notice Requirements:**

In conformance with Section 2.08 of the Flathead County Zoning Regulations regarding amendments to the text of that document, legal notice of the Planning Board public hearing on this application was published in the February 23, 2020 edition of *The Daily Interlake*. Public notice of the Board of County Commissioners' public hearing regarding the zoning text amendment will be published in the legal section of *The Daily Interlake* once a week for two weeks prior to the public hearing and be physically posted within the County according to statutory requirements found in Section 76-2-205 M.C.A. All methods of public notice will include information on the general character of the proposed amendment to the text of the *Flathead County Zoning Regulations*, the time and place of the public hearing and that the text of the amendment is available for public inspection at the Flathead County Planning and Zoning Office and the Commissioners' Office.

**III. COMMENTS RECEIVED**

**A. Public Comments**

As of the writing of the staff report, no public comments have been received.

**B. Agency Comments**

The nature of the proposed amendments did not appear to warrant requesting additional agency comments.

**IV. EVALUATION OF PROPOSED AMENDMENT**

**A. General character of and Reason for Amendment**

As mentioned above, this is a request to amend the PUD section of the Flathead County Zoning Regulations. The proposal is for a complete rewrite of the section. There have been a handful of minor changes to this section of the regulations since it first appeared in 1990, but otherwise it contains the original language when it was initially adopted. This request proposes to clarify the purpose and intent of the PUD regulations, better outline the application requirements for both preliminary and final applications, more clearly enumerate the required findings of fact for approval, clearly delineate PUD developments may also be required to coordinate with other County regulations such as the Subdivision Regulations. The proposal also eliminates any references to a PUD requiring phasing. It should be noted that while many PUDs also involve a subdivision, a PUD is a zoning overlay that may alter certain use, road improvement requirements, and bulk and dimensional requirements. Once the PUD overlay is adopted, it will be for the entire project. If a subdivision is also associated with the PUD, the subdivision may be approved in phases and will be subject to the requirements of the subdivision regulations.

Also a part of this request is to rewrite the Scenic Corridor section of the regulations. Currently, this section prohibits off-premise signage, but does not define off-premise signs. Further, there do not appear to be any limits on the amount and size of signage within properties zoned Scenic Corridor that advertise services that are located on the property. The proposal attempts to clarify those issues and define off-premise signs.

Finally, staff has identified several terms that are defined but are not mentioned anywhere else in the regulations. This proposal requests to eliminate those terms from the definition chapter.

**B. Proposed Amendment**

The proposed amendments can be found in attached Exhibit A.

**C. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)**

**i. Whether the proposed text amendment is made in accordance with the Growth Policy/Neighborhood Plan.**

The proposed

The following are the goals and policies of the Flathead County Growth Policy that pertain to the proposed text amendment:

- ❖ **G.2** – *Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*
  - The Flathead County Zoning Regulations, by their very nature, preserve the rights of property owners to the use, enjoyment, and value of their property because the various zoning use districts clearly permit or conditionally permit many uses. In addition, the same rights of surrounding property owners are protected because of the certainty that adjacent property owners will be required to follow the regulations. Further, the proposed amendments should enable the regulations to be more accessible and easier to understand for the general public. Specifically, a Planned Unit Development offers flexibility in how certain properties are development in order to preserve open space, avoid areas that could pose health and safety risks due to flooding or steep slopes, and reduce the extent of infrastructure that needs to be developed.
  - The request protects the health, safety, and welfare by calling for a more detailed application submittal and also more clear enumeration of the required findings to support a decision on a Planned Unit Development.
- ❖ **G.5** – *Adequate industrial land in areas that are close enough to goods and services to be efficient but far enough from other uses to offset objectionable impacts to the human and natural environment.*
- **G.6** – *Adequate commercial land that is safely accessible and efficiently serviceable.*
  - The proposed PUD text amendment allows developments in commercial and industrial zones and also outlines mixed-use developments that can incorporate different uses with appropriate buffering.
- ❖ **G.8** – *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and general welfare of neighbors and efficiently provide local services.*
  - The proposed PUD amendment better clarifies the standards by which a PUD is developed, proposes application requirements that are designed to identify future impacts and how the development will mitigate those impacts. Moreover, the flexibility allowed in a PUD development should both allow residential and mixed-use development options for property owners at the same time the regulations will require conditions be met to protect the health, safety, and welfare of surrounding residents.
- ❖ **G.11** – *Protection of scenic resources available to both residents and visitors.*
  - The proposed PUD text amendment requires retaining open space within the development and encourages that open space to be contiguous to adjacent open space.

- The Scenic Corridor text amendment better clarifies the kinds and sizes of signage available within all properties zoned SC.
- ❖ **G.21** – *A healthy and vibrant Flathead County economy that provides diversity and living-wage job opportunities and is comprised of sustainable economic activities and private sector employment.*
- **P.21.1** – *Provide adequate land area designated for commercial and industrial use to promote affordability, creating entrepreneurialism and/or businesses relocation to Flathead County.*
  - The proposed text amendments should have a positive impact to the Flathead County economy because of the proposed PUD regulations allows mixed-use developments.
- ❖ **G.23** – *Maintain safe and efficient traffic flow and mobility on county roadways.*
  - The proposed amendments should have a minimal impact on safe and efficient traffic flows and mobility throughout the County.
  - Further clarification of the allowed signage in the Scenic Corridor should allow increased traffic safety.
- ❖ **G.24** – *Develop a quality transportation network to meet the present and future needs of the public.*
- **P.24.3** – *Require development projects to design road systems that complement planned land uses and maintain mobility on arterial roads and highways.*
- **P.24.4** – *Require road easement dedications for identified areas of future connectivity as subdivision developments are proposes, to serve present and future needs of the county residents.*
  - The proposed amendments are designed to achieve these goals and policies.
- ❖ **G.25** – *Identify and support alternative modes of transportation.*
- **P.25.2** – *Identify and prioritize areas for a predictable regional and interconnected bicycle path network and require pedestrian/bicycle easements on both sides of county roads. Encourage developments that aid and/or connect to this network.*
  - The proposed amendments are designed to achieve these goals and policies

**Finding #1:** The proposed text amendments appear to be supported by numerous goals and policies of the Flathead County Growth Policy because it preserves the rights of the property owners throughout the County; it clarifies development requirements; outlines more efficiently the application requirements for a PUD development; both the PUD and the Scenic Corridor amendments protects scenic resources and are aligned with the public’s vision of Flathead County; the proposed amendments provide increased accessibility for the general public; and the proposed amendments allows for more efficient administration of the regulations.

**ii. Whether the proposed text amendment is designed to:**

**1. Secure safety from fire and other dangers;**

The elements contain in the zoning regulations that secure safety from fire and other dangers, more specifically bulk and dimensional standards, are not proposed to be changed. However, because a PUD is typically an overlay zone which, if approved, could alter the bulk and dimensional requirements for the development, these changed requirements will be reviewed and approved, taking into consideration security from fire and other dangers.

The proposed amendment includes language that requires coordination with other County regulations for PUD developments. Many PUD developments are also associated with subdivision requests. During subdivision review for PUD developments, security from fire and other dangers is reviewed and appropriate conditions are placed on any approval.

**Finding #2:** The proposed text amendment is designed to help secure safety from fire and other dangers because the bulk and dimensional requirements, if changed within the PUD development, will be reviewed and appropriate conditions will be associated with approval to ensure the development is secure from fire and other dangers. In addition, the text amendment also requires that all other County regulations be adhered to, including subdivision requirements, which will also ensure additional security from fire and other dangers.

**2. Promote public health, public safety, and general welfare;**

By their very nature, zoning regulations are designed to promote public health, safety, and general welfare. The proposed PUD amendment better clarifies application submittal requirements and more clearly enumerates required findings that need to be made in order to approve a PUD development. This clarification is designed to promote public health, safety, and general welfare.

The proposed Scenic Corridor amendments are designed to clarify the types and sizes of signage located within this zone. It is anticipated that these changes along with the proposed definition of “off-premise sign” will de-clutter major transportation corridors with unneeded signage.

**Finding #3:** The proposed text amendments will promote public health, public safety, and general welfare because the proposed language in the PUD section outlines application submittal requirements and enumerates required findings that should ensure PUD developments are reviewed with public health, safety, and welfare in mind. Moreover, the proposed amendments to the Scenic Corridor section will also better promote health, safety, and general welfare by prohibiting unnecessary signage.

**3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.**

The proposed amendments to the PUD section include a more detailed outline of the purpose and intent of a PUD development. The existing PUD section is absent of any language outlining the purpose and intent of a PUD. Generally, an important motivation of purposing a PUD development is the developer can shift the density of the land proposed to be developed to the most appropriate location on the property. This typically results in the creation of open space and also reduces the amount of infrastructure that will need to be developed. When the requested PUD is also associated with a subdivision request, the method of providing adequate transportation, water, sewage disposal and other public requirements, while identified in the PUD application, are reviewed in depth during the subdivision review process. With the ability of shifting densities and reducing minimum lot sizes with PUD approval, the transportation system within the development becomes more efficient, and the scope of the water and sewage disposal systems is also reduced which should result in more efficient systems as well. Moreover, the inclusion of language requiring coordination with other regulations should facilitate the adequate provision of all required

infrastructure, including roads, water, sewer, schools, parks, and any other public requirements.

The proposed amendments to the Scenic Corridor that clarifies the types and sizes of signage within the district should facilitate a safer transportation network along major highways in the County and should have no effect on water, sewer, schools, parks, and other public requirements.

**Finding #4:** The proposed text amendments will better facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements because proposed amendment clearly outlines the purpose and intent of the PUD section; transportation, water, sewer, schools, parks and all other public requirements will be reviewed and adequate findings made prior to approval of the PUD. Further, the proposal requires PUD developments to coordinate with other County regulations which will result in review and additional findings regarding transportation, water, sewer, schools, parks and other facilities; the amendments to the Scenic Corridor with clear standards for the type and size of signage will result in safer vehicular travel.

**iii. In evaluating the proposed text amendment(s), consideration shall be given to:**

**1. The reasonable provision of adequate light and air;**

The reasonable provision of adequate light and air typically is achieved through bulk and dimensional requirements. While the PUD amendment could allow for a departure from the bulk and dimensional requirements of the underlying zone, these potential departures will be reviewed during the approval process and appropriate findings will be adopted to support the final decisions. Further, the PUD amendment encourages the preservation of open space that should further provide adequate light and air within the development.

The amendments to the Scenic Corridor section should have no effect of providing adequate light and air.

**Finding #5:** The proposed text amendment will reasonably provide for adequate light and air because the proposed amendments, while allowing for a departure from the bulk and dimensional requirements of the underlying zone, will be reviewed during the approval process and adequate findings will be adopted to support the decision to deviate from the standard bulk and dimensional requirements. The Scenic Corridor amendment should have no effect on providing adequate light and air.

**2. The effect on motorized and non-motorized transportation systems;**

The PUD text amendment proposes to modernize the language that has remained essentially unchanged for decades. At the risk of being redundant, the request proposes to add purpose and intent language, more detailed application requirements, coordination with other County regulations, and clearly enumerated required findings. Motorized and non-motorized transportation systems will be reviewed for each application and appropriate findings will be adopted that addresses all transportation systems. Typically, PUD developments are associated with subdivision requests where the transportation system will be reviewed and additional findings and conditions will be approved.

It is anticipated that the Scenic Corridor amendments will have a positive effect on all transportation systems.

**Finding #6:** The proposed text amendment should have no adverse impact on motorized and non-motorized transportation systems because the proposed amendments will and purpose and intent language, more clear application submittal requirements, coordination with other County regulation requirements, and clearly enumerated findings to support PUD decisions. Moreover, because many PUD developments are associated with subdivision requests, effects on the transportation system in the area of the development will undergo further review with appropriate findings and conditions adopted. The Scenic Corridor amendments should have a positive effect on the transportation system because the request proposes to clarify the types and sizes of signage allowed within the district.

**3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);**

Because of the nature of the proposed amendments, the zoning regulations, if approved, will continue to be compatible with urban growth including those areas in close proximity to municipalities. The location of future PUD developments is not necessary tied to the property's proximity to any particular city or town. Instead, the proposed PUD amendment will continue to require provisions for adequate transportation networks, water systems, and waste water disposal systems. This infrastructure can be provided regardless of proximity to more urban areas of the County.

It is anticipated that the Scenic Corridor amendment will also be compatible with nearby urban growth.

**Finding #7:** The proposed text amendments appear to be compatible with the urban growth in the vicinity and in the vicinity of the surrounding municipalities because the location of a PUD development is not dependent on its proximity to urban areas of the County. The Scenic Corridor amendment also appears to be compatible with urban growth in the vicinity because the request clarifies the types and size of permitted signage in the district.

**4. The character of the district(s) and its peculiar suitability for particular uses;**

The PUD text amendment proposes to update the existing language of that section of the regulations that have essentially remained the same since 1990. The requested changes have been mentioned numerous times throughout this report, and those requested changes should make these regulations more accessible to the development community and more efficient for staff to administer. It should be noted that a PUD development is not necessarily confined to certain areas of the County. However, whether a PUD is approved depends almost exclusively on the quality of the application and whether the Planning Board and County Commissioners can adopt the positive findings that can support approval. In other words, a PUD development has the potential to be approved anywhere in the County. The development's character and peculiar suitability for particular uses will be determined during the review and the approval process. It does appear, however, that the proposed amendment offers more clear criteria in which a PUD may be approved.

The Scenic Corridor text amendment does appear to be well suited to the areas of the County in which this section is applicable. By clearly outlining the types and size of signage in the district, the areas along major transportation corridors should not be further cluttered with unwanted and unneeded signage.

**Finding #8:** The character of the proposed text amendments appear to be particularly suitable for the potential uses because the PUD amendments are designed to result in a more consistent set of regulations that are more effectively accessed by the general public and are more efficient to administer by County staff. In addition, the Scenic Corridor amendment request also appears to be particularly suitable because the amendments clearly outlines the types and sizes of signage allowed within the district.

**5. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.**

By its very nature, PUD regulations encourage the most appropriate use of land by encouraging the retention and preservation of open space and by prohibiting development to occur in lands that are not particularly suited for development. The creativity and flexibility that are offered in the PUD regulations enhances the most appropriate uses of land within the development.

The Scenic Corridor amendments will encourage the most appropriate use of land by clearly identifying the types and sizes of signage permitted within the district.

**Finding #9:** The proposed text amendments appear to conserve the value of existing buildings as well as future buildings and encourages the most appropriate use of the land because the PUD amendments by their very nature encourage development to occur on the most appropriate area of the property, and the Scenic Corridor amendments will better clarify the types and sizes of signage within the district.

**iv. Whether the proposed text amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.**

All three municipalities in Flathead County have PUD regulations. And while there are differences between the city's regulations and the County, these regulations appear to have essentially the same purpose and intent which is to provide flexibility in design and construction of a piece of property in order to preserve and enhance the integrity and environmental values of the subject property.

The Scenic Corridor amendments appear to be in line with the municipalities regulations on signage.

**Finding #10:** The proposed text amendments will continue to make the County zoning regulations in general and the PUD and Scenic Corridor amendments in particular, as nearly as possible, compatible with the regulations of the County's municipalities because each municipality in Flathead County has PUD regulations that offer the same degree of flexibility in order to preserve and enhance the integrity and environmental values of the property being development.

## **V. SUMMARY OF FINDINGS**

**Finding #1:** The proposed text amendments appear to be supported by numerous goals and policies of the Flathead County Growth Policy because it preserves the rights of the

property owners throughout the County; it clarifies development requirements; outlines more efficiently the application requirements for a PUD development; both the PUD and the Scenic Corridor amendments protect scenic resources and are aligned with the public's vision of Flathead County; the proposed amendments provide increased accessibility for the general public; and the proposed amendments allow for more efficient administration of the regulations.

**Finding #2:** The proposed text amendment is designed to help secure safety from fire and other dangers because the bulk and dimensional requirements, if changed within the PUD development, will be reviewed and appropriate conditions will be associated with approval to ensure the development is secure from fire and other dangers. In addition, the text amendment also requires that all other County regulations be adhered to, including subdivision requirements, which will also ensure additional security from fire and other dangers.

**Finding #3:** The proposed text amendments will promote public health, public safety, and general welfare because the proposed language in the PUD section outlines application submittal requirements and enumerates required findings that should ensure PUD developments are reviewed with public health, safety, and welfare in mind. Moreover, the proposed amendments to the Scenic Corridor section will also better promote health, safety, and general welfare by prohibiting unnecessary signage.

**Finding #4:** The proposed text amendments will better facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements because the proposed amendment clearly outlines the purpose and intent of the PUD section; transportation, water, sewer, schools, parks and all other public requirements will be reviewed and adequate findings made prior to approval of the PUD. Further, the proposal requires PUD developments to coordinate with other County regulations which will result in review and additional findings regarding transportation, water, sewer, schools, parks and other facilities; the amendments to the Scenic Corridor with clear standards for the type and size of signage will result in safer vehicular travel.

**Finding #5:** The proposed text amendment will reasonably provide for adequate light and air because the proposed amendments, while allowing for a departure from the bulk and dimensional requirements of the underlying zone, will be reviewed during the approval process and adequate findings will be adopted to support the decision to deviate from the standard bulk and dimensional requirements. The Scenic Corridor amendment should have no effect on providing adequate light and air.

**Finding #6:** The proposed text amendment should have no adverse impact on motorized and non-motorized transportation systems because the proposed amendments will and purpose and intent language, more clear application submittal requirements, coordination with other County regulation requirements, and clearly enumerated findings to support PUD decisions. Moreover, because many PUD developments are associated with subdivision requests, effects on the transportation system in the area of the development will undergo further review with appropriate findings and conditions adopted. The Scenic Corridor amendments should have a positive effect on the transportation system because the request proposes to clarify the types and sizes of signage allowed within the district.

**Finding #7:** The proposed text amendments appear to be compatible with the urban growth in the vicinity and in the vicinity of the surrounding municipalities because the

location of a PUD development is not dependent on its proximity to urban areas of the County. The Scenic Corridor amendment also appears to be compatible with urban growth in the vicinity because the request clarifies the types and size of permitted signage in the district.

**Finding #8:** The character of the proposed text amendments appear to be particularly suitable for the potential uses because the PUD amendments are designed to result in a more consistent set of regulations that are more effectively accessed by the general public and are more efficient to administer by County staff. In addition, the Scenic Corridor amendment request also appears to be particularly suitable because the amendments clearly outlines the types and sizes of signage allowed within the district.

**Finding #9:** The proposed text amendments appear to conserve the value of existing buildings as well as future buildings and encourages the most appropriate use of the land because the PUD amendments by their very nature encourage development to occur on the most appropriate area of the property, and the Scenic Corridor amendments will better clarify the types and sizes of signage within the district.

**Finding #10:** The proposed text amendments will continue to make the County zoning regulations in general and the PUD and Scenic Corridor amendments in particular, as nearly as possible, compatible with the regulations of the County's municipalities because each municipality in Flathead County has PUD regulations that offer the same degree of flexibility in order to preserve and enhance the integrity and environmental values of the property being development.

## **VI. STAFF ANALYSIS**

At times, there seems to be a slight misunderstanding on what a PUD request actually is. Ideally, PUD regulations are designed to allow a well planned development to occur on a piece of property that might have areas within the boundaries of the property that are challenging to provide and develop the required infrastructure to serve the portion of the development. PUD regulations provide the flexibility to take the characteristics of the entire property into consideration and design a development around those characteristics. Both the existing PUD section as well as the amendments being proposed also encourages the retention and preservation of open space within the development. To encourage the greatest amount of open space to be preserved, PUD regulations allows several options to the developer. One option in the preservation of open space is the ability to shift the density that would otherwise be available within the proposed open space to the portion of the property that will be developed with all the necessary infrastructure. This typically results in lot sizes being smaller than the minimum lot size of the underlying zone. In addition to changing the minimum lot size, a PUD can also request deviations from other bulk, dimensional and use requirements of the underlying zone.

Having said that, it is important to note that a PUD is zoning. This is demonstrated by the fact that a PUD goes through the same process as any other zone change. And while there may some conditions of approval associated with a PUD request unlike other zone changes, it is zoning nevertheless. I believe that the proposed amendments, aside from what has been specifically mentioned above, better clarifies the fact that a PUD request is very similar to other zone change requests. Not mentioned above is that the proposed amendment does away with any references to phasing of a PUD. The subdivision request associated with the PUD, if a subdivision is requested, would be subject to any phasing requirements. But the PUD itself with any request to depart from the bulk and dimensional requirements and the permitted and conditional use requirements of the

underlying should not require any phasing. And because the request proposes to add language that requires coordination with other County regulations like the subdivision regulations, a PUD should never require phasing.

Aside from the phasing issue that has presented some issues with prior PUDs, it appears that the requested changes should result in a more accessible and efficient set of regulations that will make the PUD process better for both staff and the Planning Board to review and make appropriate recommendations and for the County Commissioners to make a well-informed decision. As to the Scenic Corridor request, the requested changes would appear to better protect the County's major transportation corridors from intrusive signage.

## **VII. RECOMMENDATION**

Per Section 2.08.020(4) of the Flathead County Zoning Regulations, a review and evaluation by the staff of the Planning Board, comparing the proposed zoning text amendment to the criteria for evaluation of amendment requests found in Section 2.08.040, has found the proposal to generally comply with the review criteria based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

MM